Scott. H.—27—100,000—6-5-50.

Dev (1951) Department.

Ms SERIES.

G.O. No. 2860

Dated 21-6-51

[Despatch Abstract.]

Acts - Madras shops and establishments Act 1947 Appeals under section 41 Act - Ex-parte decisions of the Commissioner for workmen's compensation - Review of No jurisdiction.

Copy of letter No.F2.No.24042/51 xx dated 28-4-51, from the Commissioner for Workmen(s' COmpensation, Madras, addressed to the Secretary to Government, Development Department, Fort St. George, Madras.

SUB: MADRAS SHOPS AND ESTABLISHMENTS ACT 1947 - Appeals under Section 41 - Ex-parte decisions - setting aside - not allowed - informed of -

Under Order 9 Rule 11 of the first Schedule I to the Civil Procedure Code an ex-parte decree against a defendant may be set aside if the defendant satisfies the Court that the summons was not duly served or that he was prevented by any sufficient cause from appearing when the suit was called on for hearing.

2. There is not similar provisons// in the Madras Shops and Establishments Act which can be made applicable to appeals under Section 41 to the Commissioner for Workmen's Compensation. On the other hand, it is laid down that the decision of appellate authority is final. On grounds of natural justice, however, the appellate authority has been se tting aside the ex-parte orders passed by him when the employer shows sufficient cause for not attending the enquiry⊗ 348(1951) 1 Madras Law Journal dated 22-3-51, the High Court of Judicature, Madras, has held that an Election Commissioner acting under Dt. Board Election Dispute Rules has not jurisdiction to set aside his own order either by way of review or by way of application under Order 9 of the Civil Procedure Code when he has not been expressly empowered to do so. I consider that this ruling will apply to appeals under Section 41 of Madras Shops and Establishments Act also. When an order has once been passed, it cannot be set aside by the appellate authority on any ground. This ruling will be followed in future in deciding appeals under Section 41 of the Madras Shops and Establishments Act.

(TRUE COPY)

P.T.O

⊗ on the notified date. In the case reported at pages 347-

GOVERNMENT OF MADRAS.
ABSTACT.
.....

ACTS - Madras Shops and Establishments Act, 1947 - Appeals under Section 41 of the Act - Ex-parte decisions of the Commissioner for workmen's Compensation - Reveiew of - No jurisdiction.

- -

DEVELOPMENT DEPARTMENT.

G.O.Ms.No.2860. Dated 21th June 1951.
Read the following:-

From the Commissoner for Workmen's Compensation letter F3.No.24042/51 dated 28-4-51.

...

ORDER:

The decision of the High Court of Judicature, Madras quoted by the Commissioner for Worksmen's Compensation, in his reference cited, is correct. In the absence of a specific provision in the Madras Shops and Establishments Act, 1947 or in the rules made thereunder, empowring the Commissioner for Workmen's Compensation to review an order passed by him under section 41(3) of the Act, he has no jurisdiction to do so.

(BY ORDER OF THE ETC .)

(Sd.) xxxxxxxxxxxxxxxx
Secretary to Government of Madras.

To

The Commissioner for Workmen's Compensation, Chepauk, Madras.

Copy to the S.F.

// TRUE COPY //

R Jagannathan 20/8/86
":SUPERINTENDENT::%
MADRAS RECORD OFFICE.

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24/9.